

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen DiFiore	Team: Squad #5	CCRB Case #: 202000478	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/15/2020 8:30 PM, Wednesday, 01/15/2020 9:00 PM, Thursday, 01/16/2020 2:00 AM	Location of Incident: Covert Street & Wilson Avenue; 83rd Precinct stationhouse; § 87(2)(b) Hospital	Precinct: 83	18 Mo. SOL 7/15/2021	EO SOL 3/1/2022	
Date/Time CV Reported Fri, 01/17/2020 2:24 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/17/2020 2:24 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)		
§ 87(2)(b)		
§ 87(2)(b)		
§ 87(2)(b)		

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Benjamin Perez	16594	944886	083 PCT
2. SGT Adam Dumelle	00271	948001	083 PCT
3. Officers			083 PCT
4. DTS Brenton Cole	734	940016	083 PCT
5. PO Christian Romero	08122	957100	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Savanna Domenech	03919	960470	083 PCT
2. PO Alexander Leon	16065	949885	083 PCT
3. LT Ryan Pelant	00000	946099	083 PCT
4. POF Lisa Prezzano	16269	944688	083 PCT
5. SGT Kevin Mahones	03671	944755	083 PCT
6. LT Jessica Gavars	00000	945370	069 PCT
7. POM Kurlon Parris	24765	962661	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Adam Dumelle	Abuse: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle unlawfully arrested § 87(2)(b)	§ 87(2)(b)
B.SGT Adam Dumelle	Abuse: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle unlawfully arrested § 87(2)(b)	§ 87(2)(b)
C.SGT Adam Dumelle	Abuse: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle unlawfully arrested § 87(2)(b)	§ 87(2)(b)
D.POM Benjamin Perez	Abuse: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Police Officer Benjamin Perez performed a cavity search of § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
E.DTS Brenton Cole	Abuse: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Detective Brenton Cole performed a cavity search of § 87(2)(b)	
F.SGT Adam Dumelle	Discourtesy: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle spoke discourteously to § 87(2)(b)	
G.SGT Adam Dumelle	Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle spoke discourteously to § 87(2)(b)	
H.SGT Adam Dumelle	Abuse: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle threatened § 87(2)(b) with the use of force.	
I.SGT Adam Dumelle	Abuse: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle authorized a strip search of § 87(2)(b)	
J.DTS Brenton Cole	Force: On January 15, 2020, at the 83rd Precinct stationhouse, Detective Brenton Cole used physical force against § 87(2)(b)	
K.DTS Brenton Cole	Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Detective Brenton Cole spoke discourteously to § 87(2)(b)	
L.SGT Adam Dumelle	Abuse: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle strip-searched § 87(2)(b)	
M.SGT Adam Dumelle	Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle spoke discourteously to § 87(2)(b)	
N.SGT Adam Dumelle	Abuse: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle threatened § 87(2)(b) with the use of force.	
O.SGT Adam Dumelle	Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle acted discourteously toward § 87(2)(b)	
P. Officers	Abuse: At § 87(2)(b) Hospital in Brooklyn, officers threatened to arrest § 87(2)(b)	
Q.SGT Adam Dumelle	Abuse: On January 16, 2020, at § 87(2)(b) Hospital in Brooklyn, Sergeant Adam Dumelle supervised a cavity search of § 87(2)(b)	
R.SGT Adam Dumelle	Untruthful Stmt.: Sergeant Adam Dumelle provided a false official statement to the CCRB.	
S.SGT Adam Dumelle	Untruthful Stmt.: Sergeant Adam Dumelle provided a misleading official statement to the CCRB.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On January 17, 2020, § 87(2)(b) called the CCRB and filed this complaint on behalf of himself and two acquaintances from his neighborhood, § 87(2)(b) and § 87(2)(b).

On January 15, 2020, shortly before 8:30 p.m., § 87(2)(b) and § 87(2)(b) were standing in front of a bodega on the southeast corner of Covert Street and Wilson Avenue in Brooklyn when § 87(2)(b) approached them. § 87(2)(b) and § 87(2)(b) briefly greeted each other by at least touching hands, and § 87(2)(b) walked away. Sergeant Adam Dumelle and Police Officer Benjamin Perez, then assigned to 83rd Precinct Anticrime, drove up in their unmarked vehicle and exited. Sgt. Dumelle believed that § 87(2)(b) had sold drugs to § 87(2)(b) and he immediately unlawfully arrested § 87(2)(b) and § 87(2)(b) for various drug-related charges (BR 01-03) (**Allegations A–C: Abuse of Authority**, § 87(2)(g)). PO Perez ordered § 87(2)(b) to open his mouth so he could inspect for drugs, thereby conducting a cavity search of his mouth (**Allegation D: Abuse of Authority**, § 87(2)(g)). Additional 83rd Precinct officers responded, including Detective Brenton Cole and Police Officers Savanna Domenech, Christian Romero, and Alexander Leon. Det. Cole also allegedly ordered § 87(2)(b) to open his mouth so he could inspect for drugs (**Allegation E: Abuse of Authority**, § 87(2)(g)).

Sgt. Dumelle told § 87(2)(b) that he was not going to do any “slimy shit” regarding his arrest, and later asked him if his handcuffs were “fucked up” (**Allegation F: Discourtesy**, § 87(2)(g)). Officers transported § 87(2)(b), § 87(2)(b) and § 87(2)(b) to the 83rd Precinct stationhouse. At the stationhouse, PO Domenech brought § 87(2)(b) to the desk for processing. Sgt. Dumelle told § 87(2)(b) to “knock it the fuck off,” and also told him that it sounded like he was “talking shit” (**Allegation G: Discourtesy**, § 87(2)(g)). Sgt. Dumelle pointed a Taser at § 87(2)(b) shining the red laser sight on his chest, and told him, “You smile like I’m not psycho enough to put this in your chest” (**Allegation H: Abuse of Authority**, § 87(2)(g)).

Sgt. Dumelle directed Det. Cole and PO Romero to strip-search § 87(2)(b) (**Allegation I: Abuse of Authority**, § 87(2)(g)). While disrobing, § 87(2)(b) s sock struck Det. Cole in the face. Det. Cole allegedly pushed § 87(2)(b) into a wall and allegedly told him, “You hit me with your fucking sock” (**Allegation J: Force**, § 87(2)(g)). **Allegation K: Discourtesy**, § 87(2)(g). The officers did not find any contraband on § 87(2)(b).

Sgt. Dumelle strip-searched § 87(2)(b) (**Allegation L: Abuse of Authority**, § 87(2)(g)). Sgt. Dumelle allegedly told § 87(2)(b) to take his “fucking clothes off” (**Allegation M: Discourtesy**, § 87(2)(g)). During the strip-search, PO Perez alerted Sgt. Dumelle that he believed he saw a plastic bag of crack cocaine hanging out of § 87(2)(b) anus. Sgt. Dumelle told § 87(2)(b) to remove the bag and pointed his Taser at § 87(2)(b) chest (**Allegation N: Abuse of Authority**, § 87(2)(g)). Sgt. Dumelle allegedly told § 87(2)(b) “You’re fucking playing with me, stop fucking playing with me” (**Subsumed within Allegation M**).

Sgt. Dumelle directed PO Perez to obtain a search warrant for a cavity search of § 87(2)(b) rectum at a hospital. When the officers escorted § 87(2)(b) from the stationhouse to an ambulance, Sgt. Dumelle forced § 87(2)(b) to go wearing only his socks, underwear, and a tank top (**Allegation O: Discourtesy**, § 87(2)(g)). Sgt. Dumelle allegedly repeatedly used profanity, saying to other officers, “Fuck that, I’m taking him like that,” “Fuck that, he’s going fucking like that—he wants to fucking play games with me, I’m not here to play,” and saying to § 87(2)(b) “You’re going to the fucking hospital just like that,” “I don’t give a fuck about your clothes,” and “I ain’t got time to fucking play” (**Subsumed within Allegation M**).

At the § 87(2)(b) Hospital Emergency Room, an officer allegedly threatened to arrest the attending physician, § 87(2)(b) if he did not comply with the search warrant for § 87(2)(b) rectum (**Allegation P: Abuse of Authority**, § 87(2)(g)). Pursuant to the search warrant, § 87(2)(b) conducted a visual examination of § 87(2)(b) external anal area but did not observe or recover any contraband (**Allegation Q: Abuse of Authority**, § 87(2)(g)). Once § 87(2)(b) was

medically cleared to return to the stationhouse, Sgt. Dumelle again refused to let § 87(2)(b) get fully dressed and still required that he return to the stationhouse wearing just his socks, underwear, and tank top (**Subsumed within Allegation O**).

Sgt. Dumelle directed PO Perez to void the arrests of § 87(2)(b) and § 87(2)(b) and they were released from the stationhouse without charges. On Sgt. Dumelle's authority, § 87(2)(b) arrest was fully processed, and he was transported to Brooklyn Central Booking. However, the Kings County District Attorney's Office declined to prosecute § 87(2)(b) arrest, and he was released without being arraigned (BR 45). § 87(2)(b) filed a Notice of Claim with the NYC Comptroller's office regarding this incident. § 87(2)(a)

On April 13, 2021, Sgt. Dumelle provided a false official statement and a misleading statement to the CCRB (**Allegations R-S: Untruthful Statement**, § 87(2)(g)

§ 87(2)(g), § 87(4-b)

The investigation obtained BWC footage (BR 04–12, summarized at BR 13–19) and surveillance footage from the 83rd Precinct stationhouse (original in BR 20, CTS-playable videos in BR 20–24, summarized in BR 25–27). There was no BWC footage depicting the strip-searches or any of the events which took place inside the hospital, all of which was in keeping with the Patrol Guide's directives on BWC usage. All references to video evidence in this report use the time stamp in the video player, rather than any on-screen clock embedded in the video itself.

Sgt. Dumelle has since been promoted to lieutenant and reassigned to the 77th Precinct. PO Perez has been reassigned to the 83rd Precinct Detective Squad. § 87(2)(g)

On September 8, 2021, this case was reassigned from Inv. Conor O'Shea to the undersigned after Inv. O'Shea's departure from the CCRB. This investigation was delayed due to the COVID pandemic.

Findings and Recommendations

Allegation (A) Abuse of Authority: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle unlawfully arrested § 87(2)(b)

Allegation (B) Abuse of Authority: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle unlawfully arrested § 87(2)(b)

Allegation (C) Abuse of Authority: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle unlawfully arrested § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) were standing together outside a corner store, and that § 87(2)(b) approached them briefly before walking away. Moments later, Sgt. Dumelle and PO Perez approached the scene in an unmarked car, exited, and stopped the three men with the intent to arrest them. It is undisputed that Sgt. Dumelle made the decision to stop and immediately arrest the men.

§ 87(2)(b) provided testimony when he filed the complaint (BR 28), during an initial phone statement (BR 29), and during a sworn CCRB interview (BR 30). As noted below, he also testified about the incident in a 50-h hearing (BR 31). § 87(2)(a)

§ 87(2)(a)

§ 87(2)(b) testified in an initial phone statement (BR 32) and in a sworn CCRB interview (BR 33). His testimony was consistent. He recounted that he and § 87(2)(b) greeted each other with a normal handshake. He denied having any drugs on him during the incident and denied that § 87(2)(b) exchanged any drugs, money, or other objects with § 87(2)(b). § 87(2)(b) also denied that § 87(2)(b) shook hands with § 87(2)(b).

§ 87(2)(b) recounted that, at the time of the incident, he had his keys, wallet, and some change in his pants pockets (BR 34). He denied having any drugs on his person. § 87(2)(b) recounted that he “gave dap” to § 87(2)(b) upon approaching him. He initially said that he made some physical contact above their arms in order to avoid hand-to-hand contact due to the COVID pandemic, but he then said he did not remember if they even made physical contact at all. § 87(2)(b) denied that he and § 87(2)(b) exchanged any objects of any kind and explicitly denied that he purchased drugs from § 87(2)(b).

Sgt. Dumelle, interviewed nearly 15 months after the incident, testified that the incident location had many drug complaints involving open-air sales of mostly crack and heroin (BR 36). The Two Bosses Only (TBO) gang was known to frequent the area. He knew § 87(2)(b) and § 87(2)(b) to be members of that gang, based on information on “intelligence fliers” that are prepared by members of the Field Intelligence Team and shared with officers in the command. § 87(2)(b) and § 87(2)(b) would frequently come up in discussions at the command about crime conditions in the precinct. He further testified that he was aware that § 87(2)(b) had prior narcotics-related arrests. He was not aware if § 87(2)(b) had any weapons-related arrests, but he noted that the intelligence fliers indicated that he was known to carry a firearm. Sgt. Dumelle also testified that § 87(2)(b) had prior arrests for narcotics and guns and was known to carry a gun. Sgt. Dumelle had recently arrested § 87(2)(b) for a narcotics offense. Sgt. Dumelle also recognized § 87(2)(b) from the neighborhood, and he was aware that § 87(2)(b) also had prior arrests for narcotics possession. He was not sure if § 87(2)(b) had been arrested for selling narcotics. Sgt. Dumelle did not have any indication that § 87(2)(b) was a gang member.

Sgt. Dumelle recounted that he was riding in the front passenger seat and PO Perez was driving. They were traveling north on Wilson Avenue toward Covert Street at around 5-10 mph. He saw § 87(2)(b), § 87(2)(b), and § 87(2)(b) through the front windshield, from a distance of approximately two car lengths. It was dark at the time, but the men were illuminated by the bodega’s lights. Sgt. Dumelle had a view of the front right section of § 87(2)(b) body, and he observed § 87(2)(b) for a few seconds before he saw § 87(2)(b) remove a large plastic bag from his waistband. Sgt. Dumelle specified that § 87(2)(b) removed the bag from the area behind his back and above his buttocks. Sgt. Dumelle did not remember which hand § 87(2)(b) used to remove this bag from his waistband. The plastic bag was larger than a golf ball, smaller than a baseball, and contained a number of individually wrapped “twists” containing white rocks. § 87(2)(b) took one of the smaller twists and gave it to § 87(2)(b) in exchange for green American bills. Sgt. Dumelle did not remember which hand § 87(2)(b) used to give the twist to § 87(2)(b). Sgt. Dumelle did not know how many bills were exchanged or the value of the bills. § 87(2)(b) walked away after the exchange was complete. By the time the exchange was complete, Sgt. Dumelle was approximately one car length from the exact location of the exchange as the car was still moving slowly. PO Perez stopped the car, and Sgt. Dumelle proceeded on foot as § 87(2)(b) was putting the large bag back into his waistband. He did not remember which hand § 87(2)(b) used to do this. § 87(2)(b) and § 87(2)(b) did not make any other physical gestures at that point. Sgt. Dumelle did not see what § 87(2)(b) did with the twist after receiving it from § 87(2)(b).

At that point, Sgt. Dumelle believed he had probable cause to arrest § 87(2)(b) and § 87(2)(b). He also believed that he had probable cause to arrest § 87(2)(b) because he believed § 87(2)(b) appeared to be aiding § 87(2)(b) in selling drugs by “steering” customers toward him. However, Sgt. Dumelle could provide no particular reason for suspecting § 87(2)(b) of “steering,” beyond that he was standing with § 87(2)(b) and that the area generally has drug sellers who work with a “steerer.” He testified that he was not sure if § 87(2)(b) “steered” § 87(2)(b) or any other individual. He confirmed that § 87(2)(b) did not do anything else to lead him to believe that he was working in concert with § 87(2)(b).

Sgt. Dumelle confirmed that all three men were under arrest as soon as he approached and stopped them, and that he did not suspect them of committing any crime other than the drug transaction. Officers soon searched all three men and did not find any drugs or other contraband on them. However, while searching § 87(2)(b), Sgt. Dumelle patted down his rear waistband area and felt a “hard object” just above his buttocks. Sgt. Dumelle believed the hard object was the bag of narcotics. He could not tell under which layer of clothing the object was located. He did not attempt to reach into § 87(2)(b) clothing to retrieve the object because that would have constituted a prohibited public strip-search. § 87(2)(b) was initially cuffed behind his back, and but Sgt. Dumelle moved his cuffs to the front of his body because he wanted to prevent § 87(2)(b) from attempting to access the hard object. Sgt. Dumelle had already decided that § 87(2)(b) would need to be strip-searched at the stationhouse. Prior to leaving the scene, Sgt. Dumelle searched the surrounding area for contraband, including inside a nearby trashcan and inside the bodega. He did not find any contraband.

Sgt. Dumelle’s BWC footage (BR 04, beginning at 00:00) captured him arriving on scene, exiting his vehicle, and immediately approaching § 87(2)(b) and § 87(2)(b). The footage begins approximately 13 seconds before PO Perez even turns onto Wilson Avenue; he appears to have been driving southbound on Schaefer Street before turning right onto Wilson Avenue. From the beginning of the footage, Sgt. Dumelle holds the illuminated screen of what appears to be his NYPD-issued cellphone in front of him. The screen is difficult to discern, but it appears to be displaying a video. The video has a pattern of flashing lights consistent with the exterior of the bodega in front of which the incident occurred. It appears that the video he is displaying on his cellphone is potentially a video of the ultimate arrest location, but the source of the footage is unclear, as is whether the footage is a live feed or a recorded video. Approximately five seconds after turning onto Wilson Avenue, Sgt. Dumelle points out the front windshield, and PO Perez pulls over. Sgt. Dumelle exits and walks approximately 17 paces to reach § 87(2)(b) and § 87(2)(b) in front of the bodega. The footage also shows that § 87(2)(b) had a bottle of liquor in a plastic bag. After handcuffing § 87(2)(b) and at § 87(2)(b) request, Sgt. Dumelle poured liquor from the bottle into § 87(2)(b) mouth.

The footage also shows that, after the arrestees were lodged in vehicles for transport, Sgt. Dumelle told Det. Cole of § 87(2)(b) “He’s front-cuffed. Check him real good when we get back, okay? It’s in there. He stuffed it.” Sgt. Dumelle then spent about three minutes conducting a relatively thorough search of the area, including in garbage piles, in the wheel wells of nearby parked cars, in the bodega’s gated trash area, and inside the bodega.

In his CCRB interview, Sgt. Dumelle testified that he did not recall whether he viewed any surveillance footage of the incident location prior to arresting the three men. He noted that supervisory officers have direct access on their cellphones to footage from NYPD-installed surveillance cameras. Sgt. Dumelle also confirmed during his interview that the arrests of all three men were based solely on the actions he saw them take while observing them from within his vehicle. Sgt. Dumelle did not view or respond directly to the BWC footage showing him appearing to view a video feed on his phone prior to the arrests.

PO Perez was interviewed approximately 15 months after the incident (BR 37). His testimony regarding his prior knowledge of § 87(2)(b), § 87(2)(b), and § 87(2)(b) was generally consistent with Sgt. Dumelle’s testimony. PO Perez similarly recounted seeing a “transaction” between § 87(2)(b) and § 87(2)(b) as he was driving on Wilson Avenue. He estimated that he

was approximately 20-30 feet away at the time, and that he was driving at approximately 10-15 mph. In PO Perez's recollection, he and Sgt. Dumelle just happened to be driving by at the time. He did not know if Sgt. Dumelle was observing any surveillance camera on his cellphone prior to the incident. PO Perez saw § 87(2)(b) and § 87(2)(b) shake hands as if they were exchanging something, meaning that they clasped their hands "quick," or for mere seconds. At his legal representative's prompting, PO Perez agreed that § 87(2)(b) and § 87(2)(b) behavior was consistent with a drug transaction based on his experience. PO Perez confirmed, however, that he did not actually see any objects or money in either § 87(2)(b) hands or § 87(2)(b) hands at any point. PO Perez speculated that it was possible that § 87(2)(b) could have paid someone besides § 87(2)(b) in purchasing the drugs, and that § 87(2)(b) only role was to provide the drugs. However, PO Perez acknowledged that he never saw § 87(2)(b) give any objects or have any other hand-to-hand interactions with anyone other than § 87(2)(b). PO Perez also speculated that § 87(2)(b) could have dropped money on the ground in order to pay for drugs, but he confirmed that he did not see § 87(2)(b) drop any money.

PO Perez further testified that he believed § 87(2)(b) and § 87(2)(b) had engaged in a drug transaction because he saw § 87(2)(b) put something into his pants after the alleged transaction. However, he acknowledged that he did not actually see any objects in § 87(2)(b) hands when this happened, and he could not recall specifically if § 87(2)(b) placed anything into the front or the back of his pants. PO Perez believed that § 87(2)(b) was hiding drugs in this moment, rather than reaching into his pants with an empty hand to scratch an itch, adjust clothing, or otherwise do something innocuous, solely because in PO Perez's experience, individuals in the vicinity of Covert Street and Wilson Avenue who sell drugs typically hide their drugs on their person after completing a sale. PO Perez had no other reason to believe that § 87(2)(b) reached into his pants to hide drugs, as opposed to for an innocuous reason. He never saw § 87(2)(b) drop anything to the ground.

PO Perez further testified that he believed he had witnessed a drug transaction because § 87(2)(b) walked away "suspiciously" after his brief interaction with § 87(2)(b). By "suspiciously," PO Perez meant that § 87(2)(b) looked backwards to the area he was coming from as the officers pulled up on him to stop him. When asked to explain how that behavior was suspicious rather than innocuous, PO Perez said he did not know. PO Perez did not see § 87(2)(b) put anything in his mouth after the alleged sale, nor did PO Perez see § 87(2)(b) put anything in his pants after the alleged sale. PO Perez did not describe § 87(2)(b) as acting nervous or doing anything furtive, and he confirmed that he did not see § 87(2)(b) drop anything to the ground.

Despite the above-referenced observations, PO Perez later testified that he had no other reason to believe that § 87(2)(b) and § 87(2)(b) had engaged in a hand-to-hand drug transaction beyond his knowledge of the crime conditions in the area and his knowledge of § 87(2)(b) and § 87(2)(b) prior criminal histories. PO Perez believed that there was probable cause to arrest § 87(2)(b) and § 87(2)(b) based on his observations.

With regard to § 87(2)(b) PO Perez testified that he might generally have acted as a "steerer" for § 87(2)(b) but he did not describe any particular incidents in which he actually saw § 87(2)(b) do so. PO Perez later testified that § 87(2)(b) was merely "around" and standing nearby when § 87(2)(b) and § 87(2)(b) interacted. When asked directly if he believed § 87(2)(b) was a participant in a drug transaction, PO Perez said, "At that point, I was focused on what I saw, so I don't know." When asked if he saw anything that made him think § 87(2)(b) was engaging in a drug transaction, PO Perez said, "I don't think so. I don't know." PO Perez ultimately confirmed that he did not see § 87(2)(b) do anything at all that made him think that § 87(2)(b) was participating, in any way whatsoever, in § 87(2)(b) alleged drug sale with § 87(2)(b). However, he then later testified that § 87(2)(b) was "always around" when people sold drugs in the area. When asked if he thought § 87(2)(b) was acting as a "steerer" during the incident, PO Perez testified, "He was around. I probably thought, at that point, yes." When asked directly if he believed he had probable cause to arrest § 87(2)(b) during the incident, PO Perez demurred that he did not make the decision to arrest § 87(2)(b). PO Perez ultimately was unable to say whether there was probable cause to

arrest § 87(2)(b)

PO Perez's BWC footage (BR 05) did not begin until he was already outside of his vehicle and interacting with § 87(2)(b). As will be noted below, he searched § 87(2)(b) upon stopping him and visually inspected the inside of his mouth. He did not find any drugs or other contraband on § 87(2)(b).

PO Perez sat beside § 87(2)(b) during transport, and his BWC footage did not capture § 87(2)(b) make any movements consistent with further secreting anything in his anus. The officers ultimately found no contraband on § 87(2)(b) or § 87(2)(b) even after strip-searching § 87(2)(b). Sgt. Dumelle and PO Perez strip-searched § 87(2)(b). PO Perez testified to seeing an amount of crack cocaine in a baggie protruding from § 87(2)(b) anus, and both he and Sgt. Dumelle testified that § 87(2)(b) initially said he would remove the bag but then pushed it fully into his rectum. The surveillance footage capturing the strip-search of § 87(2)(b) neither conclusively proved nor disproved that PO Perez saw a foreign body in § 87(2)(b) anus or that § 87(2)(b) pushed it further inside. PO Perez obtained a search warrant for § 87(2)(b) rectum (BR 43). § 87(2)(b) testified that he performed a visual examination of the exterior of § 87(2)(b) anus at the hospital, and he did not see anything indicating the presence of a foreign body (BR 35). § 87(2)(b) maintained to § 87(2)(b) that the officers were incorrect about there being anything in his rectum. § 87(2)(b) did not perform a digital rectal examination due to the risk, if there were drugs in § 87(2)(b) rectum, that such an intervention could puncture the container and endanger § 87(2)(b). § 87(2)(b) then spent many more hours in custody, including at least five hours at § 87(2)(b) Hospital, additional time in custody at the stationhouse, and finally some amount of time in custody at Central Booking. At no point were any drugs recovered from him. The DA's Decline to Prosecute Form found there was insufficient evidence to prosecute because no drugs were recovered from § 87(2)(b) or § 87(2)(b) and thus they could not prove beyond a reasonable doubt that § 87(2)(b) had possessed or sold any drugs (BR 45).

The investigation ultimately could not determine if § 87(2)(b) did possess a packaged amount of crack cocaine, and if he managed to successfully hide and retain it in his rectum throughout the many hours between the moment of his arrest and his eventual release from Central Booking. Such a determination was not necessary, however, to reach dispositions for these allegations.

The investigation ultimately did not credit that Sgt. Dumelle saw the detailed exchange between § 87(2)(b) and § 87(2)(b) that he described in his testimony. The entire interaction described by Sgt. Dumelle would have to have taken place within the five seconds between when PO Perez first turned onto Wilson Avenue and when the officers pulled over. In fact, the exchange must have been even briefer than that, because § 87(2)(b) had already walked away from § 87(2)(b) by the time PO Perez pulled over. For much of that time, Sgt. Dumelle was more than half a block away from the exchange, at night, in a moving vehicle. The investigation therefore found it unlikely that he could have seen § 87(2)(b) retrieve a sizeable ball of packaged drugs from his pants, remove a smaller twist from within the ball, exchange the twist for cash, put the larger package back into his pants, and successfully lodge the package inside his anus from such a distance within such a short period of time.

The investigation also found significant the fact that PO Perez, who was seated beside Sgt. Dumelle at the time, at most saw § 87(2)(b) and § 87(2)(b) touch hands and then § 87(2)(b) reach into his pants. That PO Perez was unable to see whether either man was ever holding any objects at all also led the investigation to doubt that Sgt. Dumelle witnessed such a detailed transaction. The fact that officers found no drugs whatsoever on § 87(2)(b) despite his having ostensibly just purchased drugs mere seconds before being stopped, also led the investigation to doubt that Sgt. Dumelle saw the exchange he described. Sgt. Dumelle's contemporary remarks and actions on scene after making the arrests certainly make clear that he believed § 87(2)(b) had secreted contraband on his person. However, the fact that Sgt. Dumelle genuinely had such a belief need not have resulted from him having seen the detailed transaction he described in his CCRB testimony. Finally, though there is some indication that Sgt. Dumelle may have obtained information from

surveillance footage prior to the arrests, he did not cite any observations from such footage as forming a basis for his decision to make the arrests, and he confirmed that he made the decision to arrest the three men solely based upon what he observed through his vehicle's windshield.

In addition to the above reasons for not crediting Sgt. Dumelle's claims about the alleged drug transaction, the investigation also was influenced by his false and misleading testimony regarding his actions during later portions of the incident.

At most, combining both PO Perez's account of seeing § 87(2)(b) and § 87(2)(b) touch hands and § 87(2)(b) account of his giving a dollar bill to § 87(2)(b) the investigation could only credit that Sgt. Dumelle would have seen a one-way interaction in which § 87(2)(b) gave currency to § 87(2)(b).

In a location known for drug sales, officers with prior narcotics training and experience have probable cause to conclude that a drug transaction has taken place when they observe a hand-to-hand exchange of an unidentified object for currency, especially if the object is packaged or handled in a manner consistent with it being a drug and if there is evidence of additional furtive or evasive behavior by the participants. *People v. Jones*, 90 N.Y.2d 835 (1997) (BR 47); cited by *People v. Reeves*, 2018 N.Y. Misc. LEXIS 236 (Bronx County, 2018, *uncorrected* (BR 48)).

Officers may not stop an individual merely because he is seen in the company of another whom the officers have probable cause to arrest. *People v. Martin*, 32 N.Y.2d 123 (1973) (BR 49). "A brief conversation on a public street in front of a bodega...does not support an inference that the two [individuals] were confederates in wrongdoing or that they even knew each other." *People v. McLoyd*, 35 Misc. 3d 822 (Sup. Ct., New York Co., 2012) (BR 50).

§ 87(2)(g)

§ 87(2)(g) The investigation did not include Sgt. Dumelle's alleged detection of a hard object near the rear of § 87(2)(b) waistband in considering whether the arrests were lawful, as that did not happen until he was already in the process of arresting § 87(2)(b) § 87(2)(g)

With regard to § 87(2)(b) Sgt. Dumelle simply could not cite any objective basis for suspecting him of possessing drugs or engaging in a drug transaction. Indeed, he acknowledged that he was not sure if § 87(2)(b) "steered" § 87(2)(b) or anyone else to § 87(2)(b) and he confirmed that § 87(2)(b) did nothing to indicate he was working in concert with § 87(2)(b) beyond standing beside him. § 87(2)(g)

Allegation (D) Abuse of Authority: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Police Officer Benjamin Perez performed a cavity search of § 87(2)(b)

Allegation (E) Abuse of Authority: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Detective Brenton Cole performed a cavity search of § 87(2)(b)

It is undisputed that PO Perez ordered § 87(2)(b) to open his mouth shortly after stopping him, and that he visually inspected the inside of his mouth in search of the drugs he believed § 87(2)(b) had just purchased.

PO Perez's BWC footage (BR 05, at 00:35) shows him telling § 87(2)(b) "Let me see your mouth. Open your mouth." § 87(2)(b) can be heard saying, "Aah," and PO Perez gives him additional instructions regarding displaying the inside of his mouth.

PO Perez testified that he ordered § 87(2)(b) to open his mouth solely because, in his experience, drug purchasers will sometimes put the drugs in their mouths. PO Perez confirmed that he never saw § 87(2)(b) put anything in his mouth.

§ 87(2)(b) also alleged that Det. Cole searched him in the exact same manner when he arrived on scene, including by ordering him to open his mouth and lift his tongue for visual inspection.

Det. Cole was interviewed 15 months after the incident (BR 38). He denied ever instructing § 87(2)(b) to open his mouth. Det. Cole's BWC footage does not begin until he is already standing beside a handcuffed § 87(2)(b) (BR 09). He remains with § 87(2)(b) for a short time before officers escort him to a vehicle. Det. Cole does not instruct § 87(2)(b) to open his mouth during the footage, but the footage also clearly does not capture the entirety of Det. Cole's interaction with § 87(2)(b). None of the other BWC footage captured Det. Cole inspecting the inside of § 87(2)(b) mouth.

An officer's attempt to recover drugs or contraband from an arrestee's mouth should be based upon articulable observations supporting a reasonable belief that the arrestee has such a substance in his mouth. Such observations could include that the arrestee was found in possession of drugs and that he mumbled or spoke in a manner consistent with having a foreign object in his mouth. *People v. Cooper*, 7 Misc. 3d 61 (1st Dept., 2005) (BR 68).

By instructing § 87(2)(b) to open his mouth and visually inspecting the inside of his mouth, PO Perez conducted a cavity search of § 87(2)(b). PO Perez's sole reason for suspecting that § 87(2)(b) had drugs in his mouth was his general knowledge that drug purchasers sometimes put drugs in their mouths. He did not observe § 87(2)(b) in possession of drugs, did not see him make any motions consistent with putting something into his mouth, and did not observe anything strange about § 87(2)(b) speech. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Discourtesy: On January 15, 2020, at Covert Street and Wilson Avenue in Brooklyn, Sergeant Adam Dumelle spoke discourteously to § 87(2)(b)

Beginning at approximately 03:30 in Sgt. Dumelle's BWC footage (BR 04), § 87(2)(b) attempts to get an explanation from Sgt. Dumelle for his arrest, and specifically in the event that the officers do not find any contraband in § 87(2)(b) possession. Sgt. Dumelle tells him, "No, no, you'll be all right. Don't worry about it....I'm not gonna do you dirty. I'm not gonna do some slimy shit, all right. I'm pretty much by the book. I'm not gonna do some slimy shit. Just chill, ok?" At the 05:28 mark, § 87(2)(b) asks Sgt. Dumelle to adjust his handcuffs. Sgt. Dumelle responds by asking if one of the handcuffs is "fucked up."

Sgt. Dumelle acknowledged saying that he was not going to do any "slimy shit" and noted that he used this language because he did not want to seem robotic and wanted to treat § 87(2)(b) like a "gentleman" (BR 35). He further acknowledged that he probably asked if the handcuffs were "fucked up" and again stated that he spoke this way to not sound robotic.

Patrol Guide Procedure 200-02 directs officers to render services "with courtesy and civility" (BR 64). NYPD DCT Case 76927/04 ruled that an officer may use "an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation" (BR 65).

§ 87(2)(g) The fact that he did not want to sound "robotic" does not require him to use profanity when speaking to an arrestee.

§ 87(2)(g)

Allegation (G) Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle spoke discourteously to § 87(2)(b)

Allegation (H) Abuse of Authority: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that Sgt. Dumelle told him to “calm the fuck down” while he was being processed at the front desk. At the same time, Sgt. Dumelle also drew his Taser and pointed it at § 87(2)(b)'s chest, which made him feel threatened. § 87(2)(b) was rear-cuffed at the time.

PO Domenech's first BWC video (BR 07, beginning at 12:35) captured Sgt. Dumelle's conversation with § 87(2)(b) at the front desk. PO Domenech had placed her BWC on the top of the main desk facing § 87(2)(b). Other BWC footage shows that Sgt. Dumelle had walked behind the main desk during this portion of the footage. As a result, Sgt. Dumelle was located behind the BWC, and he is not visible in the footage. The footage shows that § 87(2)(b) used profanity while asking why he was arrested and complaining that officers were booking him at the stationhouse. § 87(2)(b) repeatedly asked Sgt. Dumelle to tell him why he had been arrested. Sgt. Dumelle told § 87(2)(b) “Keep cursing, and keep being disrespectful, and I'm not gonna—and I'm not gonna help you out.” He went on to say, “If this is how you wanna act in my house right now—if this is how you wanna act in my house right now, I'll treat you like you—like you're acting.” § 87(2)(b) retorted that he was in handcuffs and being treated like an animal, and Sgt. Dumelle replied mockingly, “Poor—poor thing. You're in handcuffs. All right?” Sgt. Dumelle told § 87(2)(b) “We're gonna work with you, right? But not if you act like this.”

At approximately 13:30, Det. Cole reached out to hold § 87(2)(b)'s right arm, which remained cuffed. § 87(2)(b) reacted by moving and exclaiming that he did not have anything on his person. At that point in the footage, a sound consistent with a Taser being unlatched from its plastic holster can be heard. A white light briefly shines upon the desk, which is consistent with the Taser's flashlight setting, and then a red laser dot appears on § 87(2)(b)'s chest. A Taser's red laser dot only appears when an officer activates the Taser by releasing the safety. It is clear from the footage that Sgt. Dumelle had drawn his Taser, activated it, and pointed it at § 87(2)(b). Sgt. Dumelle told § 87(2)(b) “Bro, knock it off. Knock it the fuck off. You smile like I'm not psycho enough to put this in your chest.” The BWC footage shows that, at the same time, Det. Cole stretched his hand out toward Sgt. Dumelle, briefly shook his head, said, “No, yo, yo, yo,” and gestured that he wanted to move § 87(2)(b) away from the desk. § 87(2)(b) said to Sgt. Dumelle, “I was just talking shit,” and Sgt. Dumelle replied, “Sounds like you're talking shit.”

PO Romero's BWC footage contained an alternate view of Sgt. Dumelle's interaction with § 87(2)(b) at the desk (BR 10, beginning at approximately 08:35), though his camera was also pointed at § 87(2)(b) and did not have a view of Sgt. Dumelle. PO Lisa Prezzano's BWC (BR 12, beginning at approximately 06:40) provided a different angle. PO Prezzano stood away from the main desk, in the area where PO Perez was waiting with § 87(2)(b) and § 87(2)(b). At approximately 06:41, Sgt. Dumelle walked past PO Prezzano and went behind the main desk. The BWC was aimed too high to capture Sgt. Dumelle's interaction with § 87(2)(b) at the desk, but the louder portions of their argument are plainly audible in the footage. At approximately 07:24, § 87(2)(b) can be heard yelling, “I'm fucking cuffed,” and Sgt. Dumelle can be heard mocking him. At approximately 07:41, PO Prezzano began walking toward the desk, and the camera captured a fleeting view of the yellow Taser being held aloft by Sgt. Dumelle (just to the right of the American flag at the desk). Sgt. Dumelle lowers the Taser moments after that time stamp.

Sgt. Dumelle initially testified that he could not recall if he was present when § 87(2)(b) was processed at the main desk, and that he did not have a recollection generally of there being any issues, aggression, or conflict while the arrestees were being processed. He did not recall telling § 87(2)(b) to relax or to “knock it the fuck off,” and he did not recall telling him, “It sounds like you're talking shit.” He also could not recall if he ever pointed his Taser at § 87(2)(b) while at the main desk. Upon viewing PO Romero's BWC footage, Sgt. Dumelle confirmed that the voice telling § 87(2)(b)

§ 87(2)(b) to “relax” was his voice. He acknowledged hearing the phrase, “Knock it the fuck off,” but said he could not understand the statement immediately afterward (quoted above as, “You smile like I’m not psycho enough to put this in your chest”). Sgt. Dumelle also acknowledged that he said that § 87(2)(b) was “talking shit,” and could only offer the explanation that it was “just a response.”

Sgt. Dumelle acknowledged seeing the red laser dot on § 87(2)(b)’s chest in the BWC footage, and he confirmed that it could have emanated from a Taser. However, he claimed that he did not know the actual source of the laser light, and he maintained that he did not recall drawing his Taser or pointing it at § 87(2)(b). He did not recall if any other officer ever drew or pointed a Taser at § 87(2)(b) and he did not recall any factors during the incident which would have necessitated the use of a Taser.

PO Perez testified that he did not recall seeing Sgt. Dumelle and § 87(2)(b) yell at one another at the desk. He denied seeing Sgt. Dumelle or any other officer point a Taser at § 87(2)(b). He could not recall if Sgt. Dumelle ever drew his Taser inside the stationhouse. He denied hearing Sgt. Dumelle make the above-described profane and threatening remarks. PO Perez maintained that he was focused on watching § 87(2)(b) upon arriving at the stationhouse.

Det. Cole denied seeing Sgt. Dumelle at the desk, denied seeing an argument between Sgt. Dumelle and § 87(2)(b), denied hearing Sgt. Dumelle make the profane remarks, and denied seeing Sgt. Dumelle point a Taser at anyone. After reviewing the BWC footage, Det. Cole maintained that he did not recall Sgt. Dumelle, or any other officer, pointing a Taser at § 87(2)(b). He could not recall what Sgt. Dumelle was doing at the time, and he claimed that he did not know what was creating the red laser dot visible in the footage.

PO Domenech was interviewed approximately 15 months after the incident (BR 40). She similarly initially testified that she could not recall if Sgt. Dumelle got into an argument with any of the arrestees while at the main desk. She denied hearing Sgt. Dumelle make the profane remarks, and she denied that Sgt. Dumelle or any other officer drew or pointed a Taser at anyone at the main desk. After reviewing the BWC footage, PO Domenech confirmed that the voice in the footage was Sgt. Dumelle’s voice, and she confirmed that the red laser dot was emanating from a Taser behind the desk. However, she maintained that she still could not recall if Sgt. Dumelle or any other officer pointed a Taser at § 87(2)(b).

PO Romero was interviewed approximately 16 months after the incident (BR 39). PO Romero confirmed that he was one of the officers searching § 87(2)(b) at the main desk, and he noted that he had reviewed his BWC footage and had seen the red laser dot on § 87(2)(b) in the footage. He did not recall seeing the red laser during the incident, testified that it could have been created by a Taser, and testified that he could not recall if Sgt. Dumelle or any other officer pointed a Taser at § 87(2)(b). He also did not recall any officer using profanity with § 87(2)(b). PO Romero reviewed the BWC footage again during the CCRB interview, and he maintained that he could not identify the officer heard speaking to § 87(2)(b) at the desk and was unable to say if it was Sgt. Dumelle.

Sergeant Kevin Mahones was the assigned Desk Sergeant at the time of the incident, and he was interviewed approximately 16 months after the incident (BR 41). He had no recollection whatsoever of the incident. After reviewing the BWC footage, Sgt. Mahones pointed himself out as being visible near the desk in the footage. He maintained, however, that he did not recall seeing or hearing any of the events contained in the footage.

The BWC footage makes clear that Sgt. Dumelle made the profane remarks described above, pointed his activated Taser at § 87(2)(b) and verbally threatened to use the Taser against him.

Patrol Guide Procedure 200-02 directs officers to render services “with courtesy and civility” (BR 64). NYPD DCT Case 76927/04 ruled that an officer may use “an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation” (BR 65). Patrol Guide Procedure 221-08 mandates that a Taser should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others. Officers are prohibited from using a Taser in situations which do not

require the use of physical force. The Patrol Guide categorically prohibits the use of a Taser on a “rear-cuffed prisoner” (BR 52).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) was not actively resisting or exhibiting active aggression. More significantly, he was rear-cuffed and surrounded by officers inside a police stationhouse. § 87(2)(g)

In addition, the investigation took particular note of Sgt. Dumelle’s own characterization of his verbal threat, which was that he would have to be “psycho enough” to use the Taser against

§ 87(2)(b)

§ 87(2)(g)

Allegation (I) Abuse of Authority: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle authorized a strip search of § 87(2)(b)

As described above, officers searched § 87(2)(b) at the scene of the arrest, and did a more thorough search of his person at the main desk in the stationhouse. It is undisputed that Sgt. Dumelle authorized a strip-search of § 87(2)(b)

§ 87(2)(b) recounted that he complied when Det. Cole and PO Romero ordered him to take off his clothes inside an individual cell. He asked multiple times why the officers were strip-searching him, and they responded generally that someone with whom he was arrested had drugs. During the strip-search, Det. Cole ordered him to bend over and spread his buttocks apart, and Det. Cole shined his flashlight on § 87(2)(b)’s buttocks but did not touch him.

CCTV footage captured the entirety of the strip-search (BR 21, from 26:11 to 33:30). The footage confirms that Det. Cole and PO Romero brought § 87(2)(b) to the cell, that Sgt. Dumelle was present and spoke at length with § 87(2)(b) and that Sgt. Dumelle left just as the strip-search began. The footage confirms that Det. Cole and PO Romero remained and supervised him as he sequentially removed his outer shirt, his t-shirt, his tank top, his pants, and his underwear. It also confirms that Det. Cole made him bend over twice and visually inspected his buttocks after he removed his underwear.

Sgt. Dumelle testified that he authorized the strip-search because he knew § 87(2)(b) was working in concert with § 87(2)(b) he was aware of § 87(2)(b)’s criminal history, and because no drugs were recovered from him during a normal search of his person. He confirmed that he never saw § 87(2)(b) place any objects in his waistband, and he did not otherwise articulate any reason for suspecting that § 87(2)(b) had drugs secreted on his person.

As described in previous sections, the investigation found that Sgt. Dumelle did not possess a sufficient basis for suspecting that § 87(2)(b) had participated as a “steerer” in a drug transaction. In addition, as described above, Sgt. Dumelle cut short the process of searching and booking § 87(2)(b) at the desk after unjustifiably threatening to use a Taser against him.

Patrol Guide Procedure 208-05 dictates that officers must conduct a thorough search of any arrestee upon arrival at the stationhouse (BR 51). Such a search is meant to take place prior to a strip-search. A strip-search is any search in which an individual’s undergarments and/or private areas are exposed. Strip-searches may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a

manner that they may not be discovered by the previous search methods. Other factors which should be considered in determining whether there is sufficient basis for a strip-search include the nature of the crime (i.e., serious violent felony), the arrest circumstances, the subject's reputation (i.e., extremely violent person), acts of violence, unaccounted "hits" on metal detectors, and any discoveries or information from previous searches of the same individual or others arrested with him.

§ 87(2)(g)

§ 87(2)(g)

Moreover, the fact that a typical search of his person did not locate any drugs was no more indicative that he had drugs secreted on his person than it was that he was not in possession of any drugs at all.

§ 87(2)(g)

Allegation (J) Force: On January 15, 2020, at the 83rd Precinct stationhouse, Detective

Brenton Cole used physical force against § 87(2)(b)

Allegation (K) Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Detective

Brenton Cole spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that he angrily swung one of his socks in his hand while removing it during the strip-search, and he inadvertently hit Det. Cole in the face with the sock. In response, Det. Cole "mushed" § 87(2)(b)'s head against the wall by poking him in the eye with two or three fingers while saying, "Calm down. You hit me with your fucking sock." § 87(2)(b) denied sustaining any injuries as a result of Det. Cole's use of force.

The CCTV footage shows this portion of the strip-search (BR 21, beginning at approximately 28:22). At 28:48, § 87(2)(b) is seated on a bench in the cell, and he removes his sock in such a manner that it does appear to swing up and strike Det. Cole in the face. Det. Cole reaches down with his left hand and appears to push § 87(2)(b)'s upper body back toward the wall. However, the placement of the cell bars and door completely obscure § 87(2)(b) and the view is further obscured by PO Romero stepping farther into the cell. Det. Cole remains in that position for approximately 10-15 seconds, during which time he appears to be speaking to § 87(2)(b). He then moves back to remove § 87(2)(b)'s other sock, while keeping his left arm outstretched and apparently retaining his grasp on § 87(2)(b). § 87(2)(b)'s entire upper body remains completely obscured by the cell bars. Det. Cole then allows § 87(2)(b) to stand back up and continue removing his clothing.

Det. Cole initially testified that he did not know if § 87(2)(b), § 87(2)(b), or § 87(2)(b) were strip-searched. He denied that Sgt. Dumelle ever directed him to strip-search any of the arrestees, and he denied that he ever strip-searched any of them in a cell. He also denied that he pushed any of the three arrestees against a wall inside a cell. When presented with the beginning of the above-referenced CCTV footage, Det. Cole identified himself in the footage but initially maintained that he did not recall the events depicted in the footage. After reviewing the rest of the footage, in which § 87(2)(b) removes his clothing, Det. Cole recounted that § 87(2)(b) voluntarily and proactively removed his clothing because he wanted to prove that he did not have any contraband. Det. Cole continued to deny that he strip-searched § 87(2)(b) even after learning that Sgt. Dumelle had testified as much.

After viewing the CCTV footage, Det. Cole claimed that something fell to the ground in the cell and § 87(2)(b) reached toward his waistband, so he grabbed § 87(2)(b)'s hand and told him not to move. Det. Cole denied that he touched § 87(2)(b)'s face. Det. Cole could not recall what object fell to the ground in the cell, and he could not recall if § 87(2)(b)'s sock struck him in the face.

Although it is clear that Det. Cole had some sort of physical interaction with § 87(2)(b) after § 87(2)(b) accidentally struck him in the face with his sock, the CCTV footage provided no

view of the nature and intensity of that interaction. § 87(2)(g)

Allegation (L) Abuse of Authority: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle strip-searched § 87(2)(b)

It is undisputed that Sgt. Dumelle supervised the strip-search of § 87(2)(b). It is also undisputed that § 87(2)(b) was brought directly to a cell to be strip-searched after arriving at the stationhouse and was not searched at the main desk before going to the cells.

As previously noted, Sgt. Dumelle testified that he saw § 87(2)(b) put an object which he believed was crack cocaine into the rear of his pants moments before his arrest. At the scene of the arrest, Sgt. Dumelle patted down his rear waistband area and felt a “hard object” just above his buttocks. He could not tell under which layer of clothing the object was located. Sgt. Dumelle had already decided by that time that § 87(2)(b) would need to be strip-searched at the stationhouse, and he advised as much to other officers on scene. As previously noted, PO Perez’s BWC footage captured § 87(2)(b) throughout his transport to the stationhouse, and at no point did he appear to move furtively or access the rear of his pants. Sgt. Dumelle did not claim that PO Perez or any officer ever told him that § 87(2)(b) had acted in a manner consistent with attempting to access or hide something secreted in his pants during the trip to the stationhouse. Sgt. Dumelle testified that he did not know if any officer conducted a search of § 87(2)(b) at the stationhouse prior to the strip-search.

The BWC footage shows that PO Perez waited with § 87(2)(b) in the stationhouse while § 87(2)(b) was being searched and booked first at the main desk. When Sgt. Dumelle pointed his Taser at § 87(2)(b) and cut short his search process at the desk, he directed PO Perez to bring § 87(2)(b) directly to an individual cell without him first being searched at the desk.

Sgt. Dumelle recounted that, during the strip-search, § 87(2)(b) squatted as Sgt. Dumelle told him to remove his underwear. At this point, PO Perez said, “It’s positive,” meaning that he saw narcotics between § 87(2)(b) buttocks. Sgt. Dumelle did not himself see the narcotics. Sgt. Dumelle told § 87(2)(b) to remove the narcotics so they did not have to get a warrant. § 87(2)(b) initially said that he would do so, but instead he pushed it into his rectum when he stood up. PO Perez provided a more detailed description of this moment of the strip-search. He recounted that § 87(2)(b) squatted, and he saw a “piece of plastic” hanging from his rectum. It was a “little bag,” containing a white or beige rocky substance. Approximately one to two inches of the plastic bag were protruding from § 87(2)(b) anus. The rocky object was much smaller than a golf ball—approximately half the size of a standard M&M candy. PO Perez told Sgt. Dumelle that he saw the drugs, and § 87(2)(b) said that he would take the drugs out himself. § 87(2)(b) then grabbed the drugs and pushed them into his rectum. PO Perez and Sgt. Dumelle tried to convince § 87(2)(b) to take the drugs out himself, but § 87(2)(b) refused to do so.

§ 87(2)(b) testified that, when he squatted during the strip-search, Sgt. Dumelle told him to take something out of himself. § 87(2)(b) replied that he did not have anything on him. Sgt. Dumelle then drew and pointed his Taser at § 87(2)(b) while still telling him to “take it out.” § 87(2)(b) maintained throughout his testimony that he never possessed any drugs and never had anything secreted in his rectum.

CCTV footage captured the entirety of § 87(2)(b) time in the individual cell, including the strip-search (BR 22, beginning at 28:00). At 31:16, § 87(2)(b) is in his underwear, stands up, and pulls his underwear down. PO Perez stands behind him in the cell, and Sgt. Dumelle stands in front of him in the cell doorway. Sgt. Dumelle’s body largely obscures the camera’s view of § 87(2)(b). At 31:24, § 87(2)(b) appears to squat or bends down while PO Perez examines his backside. § 87(2)(b)

§ 87(2)(b) stands back up after four seconds, during which time his right arm is blocked from view. His left hand appears to move toward his buttock, but he does not appear to move enough to actually reach his rectum with his left hand. At the same time, Sgt. Dumelle suddenly steps in to grab § 87(2)(b) arms. § 87(2)(b) brings his hands up in front of his chest, and he and Sgt. Dumelle speak for a number of seconds. § 87(2)(b) keeps his hands in front of him or down by his sides, while PO Perez leans down in an apparent attempt to inspect his buttocks. Sgt. Dumelle draws and activates his Taser during this time. § 87(2)(b) then pulls his underwear up, and Sgt. Dumelle continues speaking to him. Beginning at approximately 31:52, § 87(2)(b) left arm appears to be bent such that his left hand could be reaching into the rear of his underwear, and he moves his arm in a manner consistent with manipulating something in his underwear. His right arm remains obscured throughout, and PO Perez continues to stand behind him. § 87(2)(b) brings his left hand back into view at 32:13. PO Perez visibly swings back and forth behind § 87(2)(b) multiple times, apparently in search of something. § 87(2)(b) reaches to the front waistband of his underwear, Sgt. Dumelle moves to grab his wrist again, and § 87(2)(b) again holds his hands up level with his head. Sgt. Dumelle continues speaking to § 87(2)(b) while PO Perez remains behind him and appears to have picked up a piece of toilet paper. From that point on, § 87(2)(b) does not make any further motions consistent with manipulating something in his anus.

Patrol Guide Procedure 208-05 dictates that officers must conduct a thorough search of any arrestee upon arrival at the stationhouse (BR 51). Such a search is meant to take place prior to a strip-search. A strip-search is any search in which an individual's undergarments and/or private areas are exposed. Strip-searches may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods. Other factors which should be considered in determining whether there is sufficient basis for a strip-search include the nature of the crime (i.e., serious violent felony), the arrest circumstances, the subject's reputation (i.e., extremely violent person), acts of violence, unaccounted "hits" on metal detectors, and any discoveries or information from previous searches of the same individual or others arrested with him.

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§ 87(2)(g)
§ 87(2)(g)

Sgt. Dumelle himself admitted that, upon feeling the hard object, he did not know within which layer of clothing the object was located. He therefore did not know if it was secreted in a manner that would not be discovered by a thorough search at the desk, and he made no attempt to gain more information about the object or to determine if it could be retrieved without resorting to a strip-search. § 87(2)(g)

Allegation (M) Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle spoke discourteously to § 87(2)(b)

Allegation (N) Abuse of Authority: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle threatened § 87(2)(b) with the use of force.

Allegation (O) Discourtesy: On January 15, 2020, at the 83rd Precinct stationhouse, Sergeant Adam Dumelle acted discourteously toward § 87(2)(b)

It is undisputed that Sgt. Dumelle pointed his activated Taser at § 87(2)(b) during the strip-search. It is also undisputed that Sgt. Dumelle supervised the transport of § 87(2)(b) to the hospital,

while handcuffed and leg-shackled, wearing only his socks, underwear, and tank top undershirt.

§ 87(2)(b) alleged that Sgt. Dumelle said, “Take your fucking clothes off,” during the strip-search. He further recounted that Sgt. Dumelle placed the front end of the Taser directly on his chest and ordered him to remove an object from his rectum. § 87(2)(b) continued to tell Sgt. Dumelle that there was nothing to remove. Sgt. Dumelle made comments to the effect of, “You’re fucking playing with me,” and, “Stop fucking playing with me.” At the conclusion of the strip-search, § 87(2)(b) remained in the cell in his underwear, and Sgt. Dumelle brought leg shackles for transporting him to the hospital. PO Perez asked Sgt. Dumelle if he was going to allow § 87(2)(b) to get dressed first, and Sgt. Dumelle ordered that § 87(2)(b) go in his current state. Sgt. Dumelle said, “Nah, fuck that. He’s going fucking like that. He wanna fucking play games with me. I’m not here to play.” § 87(2)(b) further alleged that Sgt. Dumelle said, “You’re going to the fucking hospital just like that,” “I don’t give a fuck about your clothes,” and, “I ain’t got time to fucking play.” Shortly afterward, while officers were escorting § 87(2)(b) out of the stationhouse, Sgt. Dumelle got into a loud argument with a female officer at the main desk, and allegedly yelled at her, “Fuck that. He’s going just like that,” and, “Fuck that. I’m taking him like that. I can do that.” § 87(2)(b) further recounted that he remained in that state of dress throughout his time at the hospital, and that he was not given any additional clothing until about an hour after he returned to the stationhouse from the hospital.

The CCTV footage was largely consistent with § 87(2)(b) testimony (BR 22, beginning at approximately 31:43). As noted above, Sgt. Dumelle drew his Taser during the search, while § 87(2)(b) was standing with his underwear down around his ankles. The red laser dot of the Taser first becomes visible shining on the bench beside § 87(2)(b) at 31:52. As Sgt. Dumelle speaks to § 87(2)(b) the laser dot moves around and briefly appears on the front of § 87(2)(b) left thigh. At 32:43, it becomes apparent that Sgt. Dumelle is holding the muzzle of the Taser directly against § 87(2)(b) chest, as § 87(2)(b) stands with his hands raised. Sgt. Dumelle keeps the Taser pressed against § 87(2)(b) for nearly one minute, while animatedly speaking to him and pointing a finger in his face. PO Perez remains behind § 87(2)(b) throughout. At that point, Det. Cole arrives, enters the cell, and also begins speaking to § 87(2)(b). Sgt. Dumelle cuffs § 87(2)(b) hands in front of him and leaves the cell area. Sgt. Dumelle quickly returns with leg shackles and leaves them with Det. Cole and PO Perez, who remain and speak to § 87(2)(b). Det. Cole lights a cigarette for § 87(2)(b) as they talk.

Sgt. Dumelle returns about three minutes later, quickly enters the cell, and lunges toward § 87(2)(b) who is seated on the bench. Det. Cole pushes on Sgt. Dumelle’s shoulder, moves him out of the cell, very clearly attempts to calm him down, and finally induces him to leave the cell area again. Sgt. Dumelle returns within a minute and stands in a nearby hallway while apparently watching the cell through a mirror and listening to the ongoing conversation. Sgt. Dumelle leaves for about a minute, returns to that position to listen and watch for another minute, and leaves once more. After another minute, Det. Cole appears to motion to place the leg shackles on § 87(2)(b) but then stops and retrieves § 87(2)(b) pants and outer clothing. He searches the pants while he and PO Perez continue to speak to § 87(2)(b). Finally, at 44:15, Sgt. Dumelle returns, stops Det. Cole from walking back into the cell with § 87(2)(b) pants, and places the leg shackles on § 87(2)(b). Sgt. Dumelle later personally removes § 87(2)(b) shoes and other clothing from the cell and deposits them elsewhere. The officers continue to have extended conversations with § 87(2)(b) until an EMT arrives at approximately 55:00, when Sgt. Dumelle rear-cuffs § 87(2)(b) and the officers escort him out.

Additional CCTV footage (BR 23, beginning at 58:48) shows Det. Cole, PO Domenech, and Sgt. Dumelle bringing § 87(2)(b) into the lobby. One of the EMTs retrieves a sheet and drapes it over § 87(2)(b) shoulders, but it does not fully cover his underwear from public view. Footage from an exterior camera (BR 24, beginning at 59:17) shows PO Domenech and Det. Cole escorting § 87(2)(b) still dressed in that manner out of the stationhouse, across the street, and into an ambulance. There are several civilian cars at the nearby intersection, and commercial establishments across the street that appear to be open.

Sgt. Dumelle acknowledged pointing his Taser at § 87(2)(b) during the strip-search, around the time that PO Perez said he saw something near § 87(2)(b) anus. Sgt. Dumelle testified that he

drew and pointed his Taser because § 87(2)(b) was no longer handcuffed, and he did not know if § 87(2)(b) had a knife or other sharp object hidden “down there.” Sgt. Dumelle confirmed that PO Perez never said anything about seeing a weapon on § 87(2)(b). He acknowledged that his sole reason for suspecting § 87(2)(b) had a weapon hidden on his person was the fact that he believed § 87(2)(b) had drugs hidden near his anus. Sgt. Dumelle confirmed that he had no other reason for pointing his Taser at § 87(2)(b) other than his suspicion that § 87(2)(b) could have concealed a weapon on his person. He testified that he pointed the Taser at § 87(2)(b) for mere seconds, and that he only intended to use the Taser if § 87(2)(b) displayed a weapon.

Sgt. Dumelle initially testified that officers put § 87(2)(b) pants back on before transporting him to the hospital. He explicitly denied that he refused to allow § 87(2)(b) to wear pants. He was concerned that § 87(2)(b) would continue to take measures to conceal contraband, but he had no reason to believe there was any contraband hidden in the pants. Sgt. Dumelle also denied that he made, or did not recall making, any of the above-referenced profane remarks, and he denied having any arguments with other officers regarding the manner in which § 87(2)(b) was being transported to the hospital. After viewing the CCTV footage, Sgt. Dumelle testified that he had incorrectly recalled this portion of the incident. He changed his testimony and explained that he withheld § 87(2)(b) pants because he did not want him to have a chance to further secrete the drugs in his rectum.

PO Perez did not recall seeing Sgt. Dumelle pointing his Taser at § 87(2)(b). He acknowledged seeing it in the CCTV footage, and he speculated that his view of that Taser was likely blocked at the time because he was standing behind § 87(2)(b). He was never concerned that § 87(2)(b) had a weapon—he only suspected that § 87(2)(b) was concealing drugs on his person. PO Perez testified that he did not remember the specific profanity allegations, but he generally denied hearing Sgt. Dumelle use any profanity. Det. Cole and PO Domenech (BR 37) denied hearing Sgt. Dumelle make any of the alleged profane remarks. Det. Cole initially testified that § 87(2)(b) was wearing pants when he was brought to the hospital—he explicitly denied that § 87(2)(b) was brought outside wearing only a tank top and underwear. After viewing the CCTV footage, Det. Cole acknowledged that he had misremembered how § 87(2)(b) was dressed, and he testified that it was not his decision to transport § 87(2)(b) in his underwear. He maintained that he did not recall hearing Sgt. Dumelle using any profanity. PO Romero and PO Leon (BR 42) also did not recall Sgt. Dumelle making the alleged profane remarks. As noted above, Sgt. Mahones, the desk sergeant at the time, had no recollection of the incident.

Although it lacked audio, the CCTV footage strongly indicated that Sgt. Dumelle pointed his Taser at § 87(2)(b) specifically in relation to his desire to prevent § 87(2)(b) from further secreting drugs in his rectum and possibly in order to induce him to remove the drugs, and not from any concern about his having a weapon hidden on his person. Sgt. Dumelle’s actions throughout, including his stepping *closer* to § 87(2)(b) in order to press his Taser against § 87(2)(b) chest, displayed no evidence that he feared for his safety at the time. Moreover, the investigation found dubious Sgt. Dumelle’s claim that he ever intended to fire the Taser at § 87(2)(b) in that moment, as he would have known a Taser in cartridge mode will not be effective if fired while pressed against a person and is not designed to be used in that manner.

Similarly, the investigation concluded from the CCTV footage and from the surrounding context that Sgt. Dumelle, Det. Cole, and PO Perez attempted to convince § 87(2)(b) to remove the drugs they believed he had in his rectum, and that Sgt. Dumelle decided to transport him in a state of undress when he refused to comply.

Sgt. Dumelle was captured on video footage using profanity throughout this incident, and his visible level of animation and frustration in the CCTV footage would have been consistent with him making additional profane remarks. Sgt. Dumelle’s propensity to use profanity is clearly established in the analyses of Allegations F and G. Moreover, Sgt. Dumelle’s dubious testimony regarding Allegations A-C, G-H, and N-O cast further doubt on his denial that he used profanity with § 87(2)(b) during his strip-search. Between the CCTV footage capturing Sgt. Dumelle acting in a manner consistent with the level of frustration described by § 87(2)(b) and Sgt. Dumelle’s lack of credibility

regarding the many allegations against him in this case and specifically regarding this portion of the incident, § 87(2)(g)

Patrol Guide Procedure 200-02 directs officers to render services “with courtesy and civility” (BR 64). Patrol Guide Procedure 221-08 (BR 52) mandates that a Taser should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others. Officers are prohibited from using a Taser in situations which do not require the use of physical force. Officers are “strictly prohibited” from using a Taser “as a form of coercion or punishment and on persons who passively resist.” Passive resistance is “minimal physical action to prevent a member from performing their lawful duty,” such as by failing to comply with a lawful command. Officers are advised to avoid discharging a Taser at a person’s head, neck, and chest, if possible.

As noted above, the investigation determined that Sgt. Dumelle used profanity with § 87(2)(b) while in the cells. § 87(2)(g)

§ 87(2)(g) Sgt. Dumelle’s explanation that he feared § 87(2)(b) had a weapon was not convincing, especially as § 87(2)(b) was already stripped and standing with his underwear lowered while PO Perez watched his rear. In addition, § 87(2)(b) hands were up for the majority of the time that Sgt. Dumelle pressed his Taser against § 87(2)(b) chest. § 87(2)(g)

Allegation (P) Abuse of Authority: At § 87(2)(b) Hospital in Brooklyn, officers threatened to arrest § 87(2)(b)

Allegation (Q) Abuse of Authority: On January 16, 2020, at § 87(2)(b) Hospital in Brooklyn, Sergeant Adam Dumelle supervised a cavity search of § 87(2)(b)

It is undisputed that officers had a search warrant for § 87(2)(b) rectum by the time any search was performed at § 87(2)(b) Hospital (BR 43). It is undisputed that § 87(2)(b) searched § 87(2)(b) rectum at § 87(2)(b) Hospital.

In his CCRB statement, § 87(2)(b) testified that PO Domenech threatened to arrest § 87(2)(b) assigned doctor during his time at § 87(2)(b) Hospital, if he did not comply with the warrant. § 87(2)(a)

§ 87(2)(b) however, told the CCRB that no officer ever threatened to arrest him. As § 87(2)(b) is the victim of this allegation, the CCRB credited his testimony that no officer ever threatened him with arrest.

Patrol Guide Procedure 208-05 states, “If pursuant to a strip-search, any object or foreign material is visually detected within any body cavity of the suspect, the desk officer will be notified immediately. The object WILL NOT be removed without first obtaining a search warrant” (BR 51).

Allegation (R) Untruthful Statement: Sergeant Adam Dumelle provided a false official statement to the CCRB.

When questioned about the interaction that he had with § 87(2)(b) at the stationhouse desk, Sgt. Dumelle provided the following testimony, which is found at 01:01:38 in his interview recording (BR 36):

Inv. O'Shea: Were you present for when § 87(2)(b) - sorry, § 87(2)(b) — § 87(2)(b) — was processed at the front desk?

Sgt. Dumelle: I'm not sure if I was there.

Inv. O'Shea: Okay, do you recall there being any issues or conflict or aggression happening during the arrest processing of any of these people?

Sgt. Dumelle: I don't [inaudible] — no.

Inv. O'Shea: Okay understood. Let's see here. Did you ever have to, like, tell § 87(2)(b) to calm down or to chill out or anything while he was being processed?

Sgt. Dumelle: Not that I remember.

Inv. O'Shea: Okay, did you ever tell him to, "Knock it the fuck off," at the stationhouse?

Sgt. Dumelle: I don't remember.

Inv. O'Shea: Okay, and did you ever tell him- Him saying, "I'm just talking shit," and you responding, "It sounds like you're talking shit?" Did that kind of an exchange ever happen at the stationhouse?

Sgt. Dumelle: Not that I remember.

Inv. O'Shea: Okay, and on this incident date, were you equipped with a Taser as well?

Sgt. Dumelle: Yes.

Inv. O'Shea: Okay, and when you were at the stationhouse, did you still have the Taser with you?

Sgt. Dumelle: Yes.

Inv. O'Shea: Okay. Did you ever point a Taser at § 87(2)(b) while he was at the front desk?

Sgt. Dumelle: I don't remember.

Inv. O'Shea: Okay, understood. Do you remember ever taking the Taser out of its holster at any point during the stop or arrest processing of any of these three people?

Sgt. Dumelle: Yes.

Inv. O'Shea: Okay, can you tell me about that time when you do remember drawing your Taser?

At this point, Sgt. Dumelle recounted pointing his Taser at § 87(2)(b) while in the holding cells and made no mention of pointing his Taser at § 87(2)(b) at the stationhouse desk. However, upon being presented with the portion of PO Romero's BWC footage which captured his interaction at the desk with § 87(2)(b) (BR 10), Sgt. Dumelle provided the following testimony, which is found at 01:45:05 in his interview recording:

Inv. O'Shea: So, in the portion that I just played, there was a voice that played that said, "Knock it off," "Knock it the fuck off," "You smile like I'm not psycho enough to put this in your chest." Was that your voice?

Sgt. Dumelle: I didn't hear that part. Can you play it again?

[Whereupon the video was played again.]

Inv. O'Shea: Paused at 09:36. Just at the end of the clip there, did you hear a voice say, "Knock it the fuck off," "You smile like I'm not psycho enough to put this in your chest?"

Sgt. Dumelle: I heard the “Knock it the fuck off.” I couldn’t understand that other part.

Inv. O’Shea: Okay, understood. During the portion of the video that we just watched, as well, I’m going to rewind to the 09:33 mark here. It appears that there’s like a red laser dot on § 87(2)(b)’s chest. Are you able to explain where that’s coming from?

Sgt. Dumelle: It could be a Taser. I don’t know who had it out or...

Inv. O’Shea: Okay, and when you say it’s a Taser, are you referring to like the Taser- kind of- light that you can- that comes out of a Taser- the NYPD’s Taser? Is that what you’re referring to?

Sgt. Dumelle: Yes.

Inv. O’Shea: Okay, and when you say it’s coming from a Taser- hearing your voice- I know the camera doesn’t show you but hearing your voice here and seeing this portion of the video combined with what you independently remember from the incident, did you have your Taser out during this portion of the incident.

Sgt. Dumelle: I can’t remember.

Inv. O’Shea: Okay, did you point your Taser at him during this portion of the incident?

Sgt. Dumelle: I can’t remember.

Inv. O’Shea: Okay, so § 87(2)(b) alleged that you did point the Taser at him and that you’re the one kind of making those statements to him about putting this in your chest. So, I guess are you- you know- you’re saying you don’t remember. Are you deny- I want to be clear on your testimony here. I’m not trying to put words in your mouth- Are you denying that you pointed your Taser at him or just saying “I don’t remember one way or the other and I could have. I just don’t remember.” You know- what do you mean exactly?

Sgt. Dumelle: I’m saying I just don’t remember one way or another.

Inv. O’Shea: Okay, understood. Based on what you do remember about the incident, was there any reason why- to point a Taser at § 87(2)(b)

Sgt. Dumelle: I don’t remember, no.

Inv. O’Shea: Okay, did you see any other officer with a Taser out during this time?

Sgt. Dumelle: I don’t remember.

Inv. O’Shea: Okay, did you see any other officer point a Taser at § 87(2)(b)

Sgt. Dumelle: I don’t remember.

Inv. O’Shea: Okay, so- you know- I hear you say this laser- kind of- dot on his chest kind of looks like it could come from a Taser. Are you able to account at all for how that happened? Like it appears and then it disappears in what looks like something that is consistent with an officer taking out a Taser and pointing it at him and then stopping. And- you know- so based on what you remember, are you able to account at all for how that laser is appearing on his chest?

Sgt. Dumelle: No, I don’t remember.

The NYPD categorically prohibits officers from intentionally making a false official statement, which is defined as “an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made.” A material fact is defined as “a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail. Statements made during an official CCRB interview are covered by this Procedure. Patrol Guide Procedure 203-08 (BR 53, *effective as of the date of Sgt. Dumelle’s CCRB interview*). Intentionally making a false official statement regarding a material matter “will result in separation from the Department, absent extraordinary circumstances,” as determined by the Police Commissioner on a case-by-case basis.

Patrol Guide Procedure 203-08 further states, “When a member of the service is afforded an opportunity to recollect with the benefit of credible evidence, and the member makes a statement

consistent with the evidence, the member's prior statement will not be considered a false statement." The NYPD will not bring false official statement charges when, "as opposed to creating a false description of events, the member of the Department merely pleads not guilty in a criminal matter, or merely denies a civil claim or an administrative charge of misconduct."

§ 87(2)(g)

He initially testified he could not recall if he used the profane remarks or if he pointed his Taser at § 87(2)(b). After watching the BWC footage, he acknowledged hearing himself speaking to § 87(2)(b) from behind the desk, admitted making at least some of the profane remarks, and even initially identified the red laser dot as possibly coming from a Taser. However, he continued to maintain that he could not recall if he pointed his Taser at § 87(2)(b) and then attempted to obfuscate the issue by testifying that he could not remember what caused the laser dot to appear. Sgt. Dumelle's continued inability to recall whether he pointed his Taser at § 87(2)(b) despite video footage clearly depicting the relevant portion of the incident, simply was not credible.

§ 87(2)(g)

Allegation (S) Untruthful Statement: Sergeant Adam Dumelle provided a misleading official statement to the CCRB.

After recounting that § 87(2)(b) pushed a package of narcotics into his rectum, Sgt. Dumelle explained that a search warrant for a body cavity must be done by a medical professional. At 01:17:37 in the recording of Sgt. Dumelle's interview, the following conversation took place:

Inv. O'Shea: When the decision is made that that's going to happen, I take § 87(2)(b) is he still naked or just wearing his underwear in the cell at that point?

Sgt. Dumelle: I believe we put his underwear and pants back on for him.

Inv. O'Shea: His pants as well, you're saying?

Sgt. Dumelle: His underwear and pants back on.

Inv. O'Shea: Okay, and so did you ever refuse to give him back his pants and made him just be in his underwear- you know- for his duration in custody while he went to the hospital?

Sgt. Dumelle: No.

Inv. O'Shea: Okay, understood. And did you have- you know- once you searched all of the clothing, did you have- you know- at that point, is it your- was it your belief that the clothing is good now and there's nothing in this 'cause you searched it and there's no reason to worry about the clothing?

Sgt. Dumelle: Yes.

Inv. O'Shea: Okay, so is there any reason why you would not have given back his pants while he was in custody after searching it and after all this happened?

Sgt. Dumelle: He still had the product on him that he had hid from us, so I didn't want to give him anything- any other way to hide- to remove that product or try to put the pants [inaudible] and hide it anywhere else.

Inv. O'Shea: Okay, and so given that concern about him hiding the product elsewhere, did that mean that you did prevent him from putting his pants back on or did you give the pants back to him as you said earlier? I just want to be clear on this.

Sgt. Dumelle: He put his pants and underwear back on but everything else we kept off.

After viewing the CCTV footage showing § 87(2)(b) being walked out of his cell wearing nothing but his undergarments and restraints (BR 22), the following exchange took place at 02:08:00

in Sgt. Dumelle's interview recording:

Inv. O'Shea: Okay, so it appears that § 87(2)(b) has by this point been handcuffed, ankle-shackled, and walked out of his cell while not wearing any pants and is just kind of in his tank top, socks, and underwear. Earlier you had described that he was wearing his pants when he was brought out of the cell to go to the hospital, so can you just explain- you know- what's happening in the footage here and why he is dressed like this?

Sgt. Dumelle: After watching it, I guess I misremembered if he had his pants on or not. I just know we put his underwear on.

Inv. O'Shea: Okay, understood. And so, I guess, why did you not put his- let him put his pants back on before he is leaving the cells to go to the hospital?

LBA Representative: Same as before.

Sgt. Dumelle: Yeah, same as before. I didn't want him to hide anything anywhere else or anything like that.

Inv. O'Shea: Okay, so I guess when we were talking before, your testimony was that "I let him put his pants back on, but not anything else because I was worried about the other stuff." And it seemed like it was fine for the pants to be on, and then now you're saying that the pants also posed a problem, so I guess- can you just kind of help me understand whether the pants were a safety or security concern in your mind in terms of letting him wear them to go out to the hospital.

Sgt. Dumelle: I just misremembered what clothes we put back on him. I wasn't sure- I mean after watching the video, I see what we put back on him. I just know at the time [inaudible], I assumed it was pants.

Inv. O'Shea: Okay, and so- you know- I guess, why- you know- why would the pants pose a problem if you've already searched the pants and you can search the pants at any point after this, what's the problem with letting him wear the pants that you're able to search at any time while he's in police custody?

Sgt. Dumelle: He has the narcotics hidden in his body cavity.

The NYPD categorically prohibits officers from intentionally making a misleading official statement during an official CCRB interview. A misleading statement is: "A statement that is intended to misdirect the fact finder, and materially alter the narrative by: (a) Intentionally omitting a material fact or facts; (b) Making repeated claims of "*I do not remember*" or "*I don't know*" when a reasonable person under similar circumstances would recall, or have been aware of, such material facts; (c) Altering and/or changing a member's prior statement or account when a member of the service is confronted with independent evidence indicating that an event did not occur as initially described." A material fact is defined as "a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail." "When a member of the service is afforded an opportunity to recollect with the benefit of credible evidence, and the member makes a statement consistent with the evidence, the member's prior statement will not be considered a false statement. However, it may be considered a misleading statement..." Patrol Guide Procedure 203-08 (BR 53, *effective as of the date of Sgt. Dumelle's CCRB interview*).

§ 87(2)(g)

§ 87(2)(g) He initially testified explicitly that § 87(2)(b) was allowed to put his pants on before being transported to the hospital. When presented with contradictory video evidence, he acknowledged that he did not permit § 87(2)(b) to wear pants and blamed his inaccurate initial testimony on a faulty recollection. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- This is the first and only CCRB complaint involving § 87(2)(b) § 87(2)(b) and § 87(2)(b)
- Sgt. Dumelle has been a member of the NYPD for 13 years and has been a subject in 17 prior CCRB complaints and 33 allegations, of which six were substantiated:
 - #201011266 involved substantiated allegations of frisk and search of person against Sgt. Dumelle. The Board recommended Command Discipline. The NYPD imposed Instructions.
 - #201409828 involved substantiated allegations of physical force, stop, frisk, and search of person. The Board recommended Charges. The NYPD imposed no penalty after a Not Guilty finding at the APU.

- Sgt. Dumelle is also a subject in one complaint and two allegations filed after this complaint, the investigation into which remains ongoing.
- PO Perez has been a member of the NYPD for 14 years and has been a subject in 7 prior complaints and 14 allegations, of which four were substantiated:
 - #201203165 involved substantiated allegations of frisk and refusal to provide name/shield number against PO Perez. The Board recommended Charges. The name/shield allegation was dismissed at APU. The NYPD imposed Instructions for the frisk allegation and Formalized Training for the name/shield allegation.
 - #201801705 involved substantiated frisk and search of person allegations against PO Perez. The Board recommended Command Discipline B. The NYPD imposed Command Discipline A.
- Det. Cole was a member of the NYPD for 15 years and was named a subject in 14 other CCRB complaints and 38 other allegations, of which one was substantiated:
 - CCRB case #201114924 involved a substantiated stop, an unsubstantiated refusal to provide name/shield number § 87(2)(g), § 87(4-b). The Board recommended Charges. The NYPD imposed Command Discipline B.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, false imprisonment, assault, battery, illegal search and seizure, loss of liberty, loss of civil and constitutional rights, emotional distress, malicious prosecution, denial of due process, excessive force, defamation, and violation of First Amendment rights and seeking \$1 million as redress (BR 58). § 87(2)(a)
- As of June 21, 2020, the NYC Officer of the Comptroller has no record of any Notice of Claim regarding this incident from § 87(2)(b) or § 87(2)(b) (BR 59).
- § 87(2)(b)

Squad: 5

Investigator: <u>Stephen J. DiFiore</u>	Inv. <u>Stephen DiFiore</u>	January 23, 2022
Signature	Print Title & Name	Date

Squad Leader: <u>Daniel Giansante</u>	IM <u>Daniel Giansante</u>	January 23, 2022
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	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date